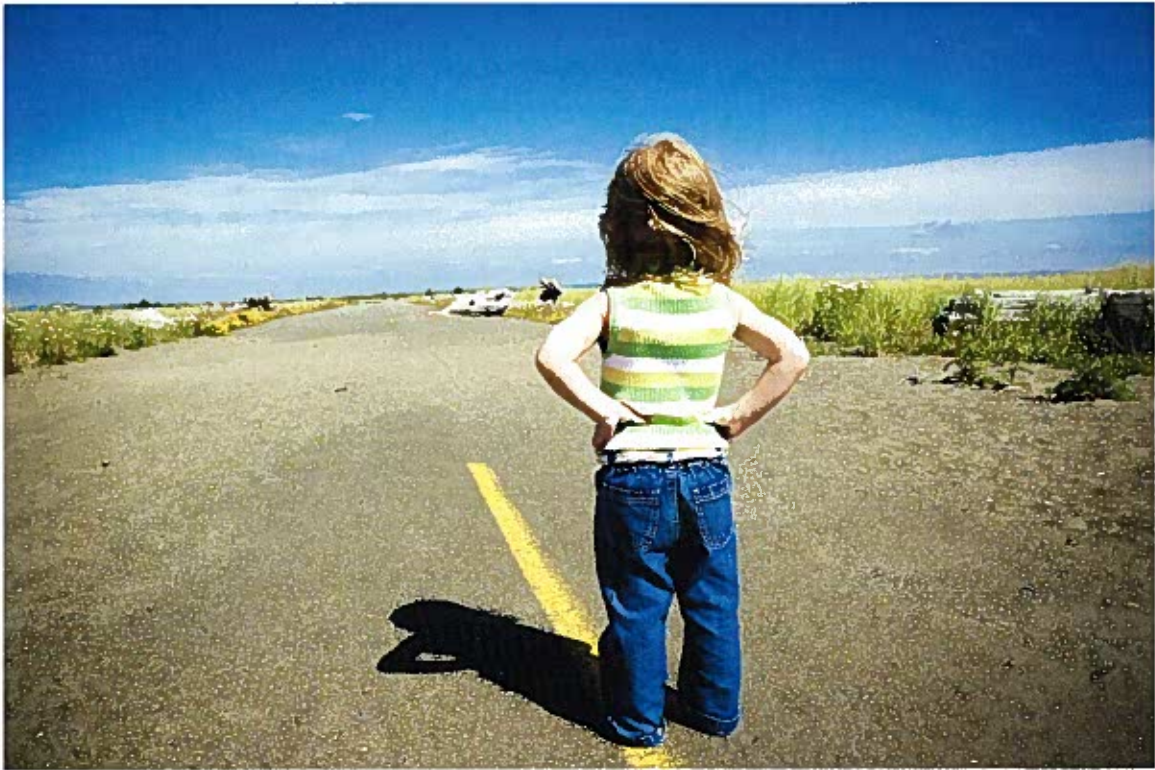


CONTINUED RESEARCH TO ADDRESS THE NEED  
FOR A CHILDREN'S OMBUDSMAN IN COLORADO



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The **Governor's Child Welfare Action Committee** has been asked to explore the role that independent oversight committees can play in ensuring that Human Services Agencies are held accountable, and recommend how these bodies can be incorporated into Colorado's Child Welfare System. Included in this request is a mandate to consider a Children's Ombudsman office. The following information is provided in furtherance of this objective.

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Governor Ritter's press release, April 16, 2008:

**"We should be angry that our data-entry and computer tracking systems have huge gaps. We should be angry about missed warning signs, and we should be angry that years of audits and studies have not done more to help keep children alive."**

Governor's Executive Order

#### **Section I**

It is **urgent** that we examine the State's child welfare system so that we can better protect children from abuse and neglect. We also need to enhance the **public confidence** in the child welfare system. The system must be more **transparent** in order to provide assurance to the public that when they have concerns about a child's well being and they report these concerns to authorities that the situation will be responded to in a timely manner by highly trained professionals.

#### **Section II (item D & D1)**

The Committee's work shall include:

**Evaluate the effectiveness of agencies like the Child Ombudsman Office in which an independent body is authorized to intervene when an agency's action or inaction may be placing a child at risk;**

## **Current “Levels of Review”**

Research included 300 hours and 100 telephone calls

- ✓ Telephone conversations (TCS) with Commissioners and/or Social Services administrators in **34** counties
- ✓ Meeting with the Colorado Department of Human Services Supervisor for Permanency Services
- ✓ Meeting with the Colorado Department of Human Services Director of the Division of Boards and Commissions
- ✓ TCS with CDHS Core Services Program contact person
- ✓ Interviews with **2** Jefferson County Guardians ad litem
- ✓ TCS with facilitator for Boulder County's Citizen Review Panel and Child Protection Team
- ✓ TCS with County Attorneys in Arapahoe and Gunnison counties
- ✓ TCS with The Office of the Child's Representative
- ✓ TCS with Colorado CASA
- ✓ TCS with Colorado Coalition for Adoptive Families.
- ✓ Child Fatality Reports , department Audits and prior Task Force recommendations
- ✓ TCS with Legislative Affairs offices in New York, Pennsylvania and Connecticut
- ✓ TCS with **25** Child Ombudsman's offices across the United States
- ✓ Written correspondence with Ombudsman Office For Youth in British Columbia

### **1) COURTS:**

- Ultimate decision makers in regard to children's placement
- The dockets are full and often overburdened
- Timely access to hearings is sometimes difficult.
- Courts address only children under the court's jurisdiction (D & N petition) or for whom Social Services has requested an emergency hearing

### **2) GUARDIANS AD LITEM:**

- The Office of The Child's Representative (OCR) provides critical training and oversight to GALs
- The GAL is expected to perform a full, thorough and independent investigation for each child
- OCR provides a formal evaluation of GALs for all CASAs and judicial officers

- GALs represent only children under jurisdiction of the court. They may challenge practices as applied to the individual client, but are not charged with the responsibility to collect data or challenge systemic problems as they affect all children at risk

### **3) COURT APPOINTED SPECIAL ADVOCATES (CASA)**

- 1,177 volunteers in Colorado ; 2,838 children served; 14 programs statewide
- Volunteers work on one case at a time (100,000 volunteer hours in 2007)
- Provide timely court reports with their independent findings
- Serve only children already under supervision of the courts
- 6,792 children involved in D & N cases not served

### **4) STATE FATALITY REVIEW TEAM**

- Medical and child protection experts review child fatalities
- Perform their reviews "after the fact"

### **5) CHILD PROTECTION TEAMS**

- Facilitated by Social Services, except in Boulder County where independent team performs function
- Meet weekly to review responses to reports of abuse & neglect
- Heavy volume of cases (50-60) covered in approximately an hour-long meeting
- Does not address concerns of community, foster parents or professionals within department

### **6) STATE DIVISION OF CHILD WELFARE SERVICES**

- Special reviews of county programs (i.e. foster care agencies)
- Citizens may choose to contact state directly
- Limited staff; unrealistic expectations; not independent

### **7) GRIEVANCE PROCESSES**

- Citizen Review Panel is the primary tool used to resolve complaints
- County Commissioner's offices often appoint panel members, but have little additional involvement

- Social Services inextricably involved in complaint process

#### **8) CITIZEN REVIEW PANELS**

- Considered to be the current, independent review mechanism
- Federal law (CAPTA) mandates, but interpretation by state has much flexibility (Senate Bill 94-205)
- No regular meetings held except in metro counties
- Number of members appointed varies from county to county (between 2-8)
- Some counties hold closed meetings, others allow Social Services to attend
- Efforts at visibility vary from county to county (one example: "We are an unknown entity..." )
- Administrative staff in smaller rural counties unaware of what Citizen Review Panels are or if they exist in their county
- Few to no complaints referred to Citizen Review Panels in any county (2008)
- Too few complaints by counties documented to review effectiveness, and little visibility
- No evidence that panels have become more effective since Governor Owens' Task Force called for strengthening the "moribund" citizen review panel in 1999
- Not independent
- 29 counties have not submitted an annual report for 2008 (deadline is June 30)  
(see appendices A-B)

#### **9) COUNTY COMMISSIONERS**

- Complaints come through Social Services, not directly from citizens
- Commissioners refer citizen concerns regarding child welfare practices to Social Services to resolve internally
- May only appoint Citizen Review panel members; have little additional involvement with oversight issues
- Perceived objectivity/accountability is compromised.

#### **10) COLORADO DEPARTMENT OF HUMAN SERVICES AUDIT DIVISION**

- Focus is on finances related to Child Welfare

## **11) LAW ENFORCEMENT AND HOSPITAL AUTHORITIES**

- Police may remove child from dangerous environment
- Verify child health concerns as experts and mandatory reporters
- Identify/investigate suspicious injuries to child
- Provide documentation of suspected child protection issues
- Evaluate child fatalities as early responders if child is brought to hospital or law enforcement is called
- No independent opportunity to seek court attention or emergency hearing when disagree with Social Services

## **12) COLORADO DEPARTMENT OF HUMAN SERVICES DIVISION OF APPEALS**

- Reviews initial decisions of the department to a) ensure decision is supported by weight of evidence, and b) ensure it complies with Federal and State law
- After review, enters "Final Agency Decision" which serves as final legal action from Department of Human Services
- Communication must be in writing, no face-to-face contact
- Case may be examined by request only (no drop-ins), during regular business hours
- Cannot provide legal advice or discuss specifics of case with citizens
- Oversight provided in latest stages of a case

## **13) COLORADO DEPT. OF HUMAN SERVICES IV-E AUDITS**

- CO receives federal monies for foster care & child welfare programs
- Audit examines how state administers program
- Oversight : In 2003, revenue was not used in accordance with statutory requirements: \$493,058 was returned to counties by state
- No public access or avenue for caseworker concerns

## **14) STATE AUDITOR**

- Performance audits of Colorado Child Welfare

- Makes recommendations in specific areas such as adoptions, residential treatment, TRAILS system, foster care, etc. Subsequent audits may revisit procedures not addressed following earlier audit recommendations.
- 2007 audit reports non-compliance with 2005 recommendations
- Oversight reported; no authority to ensure compliance

#### **15) FAMILY PRESERVATION OR CORE SERVICES COMMISSION REPORTS**

- Require counties to submit data on how many children are receiving services, and what core services are utilized
- Proactive program: addresses children who remain in the home, prior to Social Services involvement
- Oversight involves evaluating how tax dollars are spent by counties contracting for core services
- Core services are entered in TRAILS before service may be administered
- \$45,000,000 budget- solely for counties
- Program urges counties to utilize TANF dollars effectively
- Serves limited population

#### **16) COLORADO DEPARTMENT OF HUMAN SERVICES ADMINISTRATIVE REVIEW DIVISION (ARD)**

- Case review meetings every 6 months for each child in out-of-home care
- Serves as a third party review system under the auspices of the CDHS
- Assists in ensuring that children get high quality and consistent care by creating strong working relationships with county of responsibility
- Parents/ foster parents are to be invited to family meetings
- Attendance is inconsistent; invitation to attend may not always be received by all parties; meetings scheduled without consulting attorney's and other's calendars
- Not independent of Social Services
- Does not address emergencies

#### **17) COLORADO DEPARTMENT OF HUMAN SERVICES MONITORING OF 24-HOUR CARE FACILITIES**

- Provides oversight and investigation of abuse and neglect in Residential Treatment Centers

- Functions as a proactive service by monitoring facilities and responding immediately to “red flags”
- Assesses and responds to Critical Incident Reports
- Staff of 8 to monitor 250 facilities

#### **18) COLORADO DEPARTMENT OF HUMAN SERVICES PROGRAM REVIEWS**

- Reviews compliance with specific programs on an annual basis
- 1 to 2 counties (of 64 counties) are reviewed per year
- County may be penalized for lack of compliance for such programs as Adoptions, Referrals and Child Fatality cases
- Program Reviews not accessible online

#### **19) COLORADO DEPARTMENT OF HUMAN SERVICES COMPLAINT PROCESS**

- A complaint about county child welfare practices can be sent in writing to the Department of Human Services (Division of Child Welfare Complaint form is available online)
- Complaint will be investigated and response will be sent to complainant
- Complainant can utilize Citizen Review Panel if not satisfied with outcome
- No confirmation of a response to complaint letter of 10/06/08 shared with Governor's Action Coalition

#### **20) CHILD AND FAMILY SERVICES FEDERAL REVIEW**

- A result-oriented, comprehensive on-site monitoring review
- Federal government collects data from every state to measure and assess the outcomes for children receiving Child Welfare services
- Efforts made to reach uniform standards among all states using the “Performance Improvement Plan” (submitted in 2003)
- Given 9 months lead time to prepare for March 16-19, 2009 Federal review.
- Colorado, along with all states reviewed thus far, failed review. Required to implement performance improvement plan. (submitted in 2003)



## CONCLUSION

The above "levels of review" are designed to provide some oversight of the child welfare system. However, together they have not changed the public's perception of the department or led to greater transparency and trust. The single most important aspect of accountability is not addressed by the existing system; there is an inherent conflict of interest based upon the self-regulatory nature of most of the current levels of review.

Consistent public testimony before the Governor's Task Force on Foster Care and Permanence demonstrates that these mechanisms are not timely, and that there is no expectation that the findings will be based upon an independent review.

The statistics identified in Mr. Cassata's position paper were compiled in 2005. The paper does not distinguish between Child Ombudsman's offices that are functioning under the umbrella of the Human Services departments from those that have been established as independent.

The American Bar Association is a staunch supporter of Children's Ombudsman's Programs. The ABA created and adopted Standards for the Establishment and Operation of Ombudsman's Offices in February 2004. Since that time they have been actively working with programs around the country to support legislation that will create or strengthen "Child Advocate" or "Ombudsman" offices.

State Secretary of Child Welfare, Estelle B. Richman, is pushing to establish an independent Ombudsman's office to handle issues related to children in Pennsylvania's child welfare system in light of **one (14 year old) child's tragic death**.

The need for a Child Advocacy/Ombudsman office is not a new issue. The recommendation has appeared repeatedly over the course of two decades of media scrutiny, over the terms of three governors and two dozen task forces. The concept continues to be considered and promoted by concerned citizens and journalists across the state. Moreover, there has been a persistent call for needed reform in the wake of numerous child fatalities which may have been prevented. (See appendix C)

Such an independent office for children will be both proactive (preventative), as well as reactive. It will serve and engage the public, while encouraging transparency. Additionally, it would be in an ideal position to assist the department's efforts to seek funding. The Ombudsman would promote a true partnership in serving the State's children, often before their cases are ignited by media attention. Missteps in procedure would be identified and corrected without focusing blame.

The Governor's Child Welfare Action Coalition was created to address bold and long needed reforms. In furtherance of this charge, the Governor specifically recommended consideration of a Child's Ombudsman. No other specific recommendation was identified.

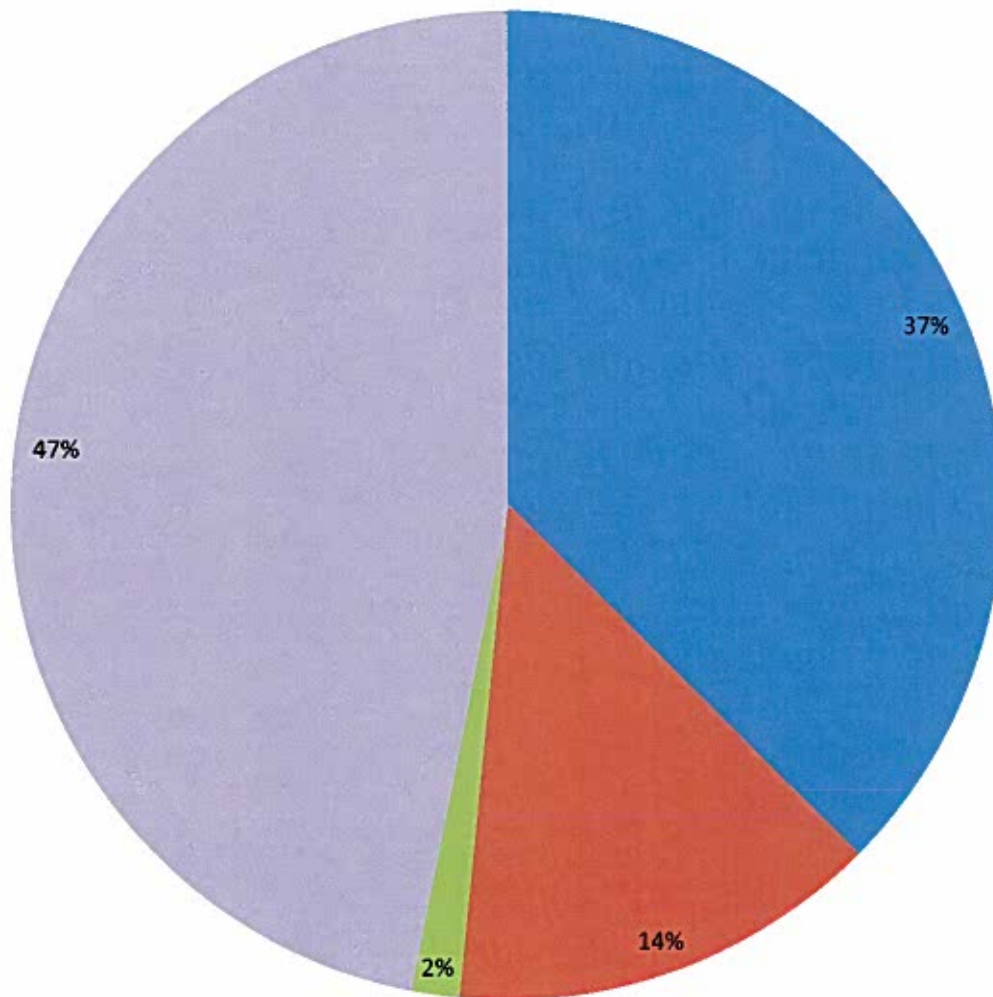
***“As partners in protecting the lives of our children, it is essential that we work together to promote accountability in our child welfare system – without it we leave our children vulnerable to the damaging and traumatic affects of child abuse and neglect. Establishing a children’s ombudsperson would add another level of checks and balances to our system that would greatly aid our mission to provide for the health and safety of all Pennsylvania children.” –***

Pennsylvania State Secretary of Public Welfare Estelle B. Richman 9/26/08



## Colorado Citizen Review Panels by county (2008 reporting year)

- Established Citizen Review Panel but no annual report submitted
- No Citizen Review Panel in place
- Established Citizen Review Panel - complaints referred
- Established Citizen Review Panel - no complaints referred



**No Citizen Review Panel in place**

- Adams
- Conejos
- Crowley
- Eagle
- Gunnison
- Pitkin
- San Miguel
- Teller

**Citizen Review Panel in place but  
no complaints referred to panel**

- Arapahoe
- Baca
- Cheyenne
- Clear Creek
- Custer
- Denver
- El Paso
- Elbert
- Fremont
- Jefferson
- Kiowa
- Kit Carson
- La Plata/San Juan
- Larimer
- Las Animas
- Lincoln
- Logan
- Mesa
- Montrose
- Morgan
- Otero
- Phillips
- Prowers
- Rio Blanco
- Routt
- Sedgwick
- Washington
- Weld
- Yuma

**Counties which have not  
submitted annual report for 2008  
(Due June 30)**

- Alamosa
- Archuleta
- Boulder
- Chaffee
- Costilla
- Delta
- Dolores
- Douglas
- Elbert
- Gilpin
- Grand
- Hinsdale
- Huerfano
- Jackson
- Lake
- Mineral
- Moffat
- Montezuma
- Morgan
- Park
- Pueblo
- Saguache
- Washington
- Yuma

**Citizen Review Panel in place with  
complaints referred to it**

- Boulder

**Appendix B**

## Headlines:



*A consistent call for reform*

## *AND HOW ARE THE CHILDREN...*

*Child-Abuse System in Crisis-Only Straits*, Bartell Nyberg, Denver Post, August 24, 1987

*Fractured Foster Care* Denver Post, October 27-29, 1991

*Cuts Ravage Social Services* Jeffrey Roberts and Carol Kreck Denver Post, December 8, 1991

*Colorado Lagging in Efforts to Better Kids' Lives*, Jeffrey A. Roberts, Denver Post, January 19, 1992

*Auroran Found Guilty of Abuse Death of Tot*, Denver Post, December 11, 1993

*Children Left Waiting in Foster Care*, Rocky Mountain News, June 23, 1993

*Need for Foster Care at Desperation Level*, Denver Post, March 10, 1994

*Abuse Top Killer of Kids*, Denver Post, April 27, 1995

*Lawyers Representing Abused Kids Never Met with a Third of Them*, Rocky Mountain News, July 18, 1996

*State Posts High Rate of Kids in Foster Care*, Colorado Ranks No. 2 in Nation, Rocky Mountain News, August 8, 1997

*Boys Death Likely Abuse- Two Year Old's Mom and Boyfriend Arrested Friday*, Kirk Mitchell, Denver Post, November 9, 1998

*Agencies Failed to Protect Kids: Foster Care for Profit May Shortchange Kids* Denver Post, February 28, 1999

*Child Deaths Put Focus on State: Troubled Protection System in Spotlight*, Denver Post, February 9, 1999

*Owens Rethinks Custody System- Proposes Overhaul of Way State, Families Relate, Rocky Mountain News, Ann Imse, February 12, 2000*

*Foster Kin Play Musical Agencies, Denver Post, May 24, 2000*

*Profiting From Foster Care, Denver Post, Patricia Callahan and Kirk Mitchell, May 22, 2000*

*Foster Care Needs "Shaking Up" -Legislative Panel Criticizes State for Failing To Punish Violators, Denver Post, Kirk Mitchell, June 27, 2000*

*Home for Dinner: To Speed up its Child Welfare System, Denver will need to Stop Kidding Around, Jargon, Julie Westword, January 18, 2001.*

*Colorado Third in Abuse Deaths, Lisa Levitt Ryckman, Rocky Mountain News, February 25, 2002.*

*The Dilemma Of Lethal Child Abuse, Lisa Levitt Ryckman Rocky Mountain News, March 11, 2002.*

*Foster Care Fiasco, John J. Sanko and Lisa Levitt Ryckman Rocky Mountain News August 6, 2002*

*Foster-Care Audit Spurs Dispute Some Say Nothing Has Changed State Says Conclusions are Flawed, Bill Scanlon, Rocky Mountain News, August 7, 2002*

*Adoption, Foster-Care Reforms Needed, Sue Badeau and Terry Bagby, Rocky Mountain News, Dec 26, 2003*

*Troubled Children Struggling System: Budget Cuts Add to Chaos for Mentally-ill Kids, Families, Crist, Gabrielle Rocky Mountain News, January 3, 2004.*

*Bill targets Child-Abuse Deaths Measure Would Mandate Investigations, Set Up Tougher Review Panel, David Olinger, Denver Post March 5, 2004*



*The Loss of Innocents: Colorado children are dying from neglect and abuse even after social service agencies receive warnings of trouble. Yet a state system created to learn from the deaths often fails to explain what goes wrong, David Olinger, Denver Post January 18, 2004*

*Overhaul sought in child protection Lawmaker Favors Coordinated Services, David Olinger, Denver Post January 25, 2004*

*Ombudsman Bill Targets Child Abuse Deaths, Denver Post, David Olinger, June 8, 2005*

*Funds in Peril Over Foster Care, April M. Washington, Rocky Mountain News December 1, 2006.*

*Kids in Foster Care Wait for Open Hearts, Homes, Samantha Critchell, Associated Press, Rocky Mountain News July 24, 2006*

*Failed By Safety Net, Kids Die Under Social Services Watch, Rocky Mountain News, Myung Oak Kim, September 29, 2007*

*Emergency Probe in Child Deaths, Kirk Mitchell, Denver Post, January 16, 2008*

*La Junta Child's Death Excluded From State Audit, Kirk Mitchell, Denver Post, January 18, 2008*

*Half of Neglect Calls Not Pursued, Karen Auge, Denver Post, March 2, 2008*

*Officer in Grafner Case Lacked Child Interview Training, Felisa Cardona, Denver Post, April 3, 2008*

*Report: Child Protection Broken, Karen Auge, Denver Post, April 16, 2008*

*How Many More Children Have To Die? Jerry Yager, Denver Post, May 29, 2008*